(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

DATE: FEB 2 4 2015 OFFICE: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Under Section 203(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)(A)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. We do not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe we incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center (Director), denied the immigrant visa petition and dismissed the petitioner's motion to reopen. The subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reconsider. The motion will be granted, the previous decision of the AAO will be affirmed, and the petition will be denied.

The motion to reconsider qualifies for consideration under 8 C.F.R. § 103.5(a)(3) because the petitioner's counsel asserts that the director and the AAO made an erroneous decision through misapplication of law or policy.

The petitioner provides information technology services. It seeks to permanently employ the beneficiary in the United States as a computer programmer. The petition requests classification of the beneficiary as an advanced degree professional under section 203(b)(2)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2)(A).

At issue is whether the beneficiary possesses an advanced degree as required for the requested classification and by the terms of the accompanying ETA Form 9089, Application for Permanent Employment Certification (labor certification). The labor certification states that the proffered position requires a master's or foreign equivalent degree in computer science. The labor certification does not allow for any alternate combination of education or experience.

The beneficiary stated on the labor certification that he received a Master's degree in computer science from [redacted] The record contains copies of the beneficiary's 2006 Master of Science degree in information technology and accompanying transcripts from the institute. The record also contains copies of the beneficiary's 2004 Bachelor of Computer Applications degree and accompanying transcripts from [redacted] in India.

The petitioner submitted a July 19, 2011 evaluation of the beneficiary's foreign educational credentials by [redacted] The evaluation states that the beneficiary completed three years of undergraduate study and two years of graduate study in India. The evaluation concludes that the beneficiary possesses the equivalent of a U.S. Master of Science degree in computer science.

In the instant case, the petitioner relies on the beneficiary's three-year Bachelor of Computer Applications degree, followed by his two-year Master of Science degree in information technology, as the equivalent of a U.S. Master's degree in computer science.

In our previous decision, we discussed the Electronic Database for Global Education (EDGE).[1] USCIS considers EDGE to be a reliable, peer-reviewed source of information about foreign credentials equivalencies.[2]

[1] EDGE was created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), "a

EDGE states that a Master of Science degree from India represents two years of university study beyond a three-year bachelor's degree. EDGE concludes that an Indian Master of Science degree is comparable to a bachelor's degree in the United States.

Our decision dismissing the appeal found that the evidence of record does not establish the beneficiary's possession of a U.S. Master's degree or a foreign equivalent degree. Further, the labor certification does not permit, and the petitioner does not claim that the beneficiary possesses, at least five years of post-baccalaureate experience in the specialty to alternatively qualify as an advanced degree professional.

The petitioner asserts on motion that the beneficiary's degree is academically equivalent to that of a U.S. Master's degree as evaluated by a respected, professional credential evaluator. Further, the petitioner asserts that we should accept the July 19, 2011 evaluation of the beneficiary's foreign educational credentials by The petitioner claims that the author's credentials match precisely the requirements outlined in 8 C.F.R. §214.2(h)(4)(iii(D)(1) and that this outweighs our presumption that the evaluation lacks probative value.[3]

U.S. Citizenship and Immigration Services (USCIS) uses an evaluation by a credentials evaluation organization of a person's foreign education as an advisory opinion only. Where an evaluation is not in accord with previous equivalencies or is in any way questionable, it may be discounted or given less weight. *Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm'r 1988). USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, USCIS is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988). *See also Matter of D-R-*, 25 I&N Dec. 445 (BIA 2011) (expert witness testimony may be given

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nonprofit, voluntary, professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions and agencies in the United States and in over 40 countries around the world." *See* Am. Ass'n of Collegiate Registrars & Admissions Officers, http://www4.aacrao.org/centennial/about.htm. AACRAO's mission "is to serve and advance higher education by providing leadership in academic and enrollment services." *Id.* EDGE is "a web-based resource for the evaluation of foreign educational credentials." *See* http://edge.aacrao.org/info.php.

[2] Federal courts across the country have upheld the use of EDGE in visa petition proceedings. *See Viraj, LLC v. U.S. Att'y Gen.*, - Fed. Appx. -, 2014 WL 4178338 (11th Cir. 2014) (upholding reliance of USCIS on EDGE reports in ruling that a beneficiary with a three-year bachelor's degree and a two-year Master's degree from India did not hold an "advanced degree"); *Tisco Group, Inc. v. Napolitano*, No. 09-10072, 2010 WL 3464314 *4 (E.D. Mich. Aug. 30, 2010) (finding that USCIS properly weighed a petitioner's evaluations and EDGE information to conclude that beneficiary's foreign undergraduate and graduate degrees were comparable to a United States bachelor's degree); *Sunshine Rehab Servs., Inc. v. USCIS*, No. 09-13605, 2010 WL 3325442 *9 (E.D. Mich. Aug. 20, 2010) (upholding a USCIS determination that the beneficiary's three-year bachelor's degree was not a foreign equivalent degree to a U.S. baccalaureate); *Confluence Int'l, Inc. v. Holder*, No. 08-2665, 2009 WL 825793 *4 (D. Minn. Mar. 27, 2009) (determining that this office provided a rational explanation for its reliance on EDGE information to support its decision).

[3] We note that the section of the regulations quoted by counsel is related to the criteria for non-immigrant petitions.

different weight depending on the extent of the expert's qualifications or the relevance, reliability, and probative value of the testimony); *Viraj, LLC v. Mayorkas*, 2014 WL 4178338 *4 (C.A.11 Ga. Aug. 25, 2014) (the AAO is entitled to give letters from professors and academic credentials evaluations less weight when they differ from the information provided in EDGE).

Although the educational evaluation submitted by the petitioner refers to EDGE, the evaluation's conclusion that the beneficiary possesses the equivalent of a U.S. Master's degree contradicts EDGE's conclusion that an Indian Master of Science degree is comparable to a U.S. bachelor's degree. The evaluation does not explain why or how it reached a conclusion different from its cited source. The contradictory conclusion of the evaluation casts doubt on its reliability. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (a petitioner must resolve inconsistencies in the record by independent, objective evidence).

In the instant case, the educational evaluation submitted by the petitioner was internally inconsistent, citing EDGE but contradicting its conclusion without explanation. Because the record does not explain or support the contradictory conclusion of the education evaluation, we afford the evaluation less evidentiary weight and conclude that the record does not establish the beneficiary's qualifying education. *See Matter of Caron International. See also Matter of D-R-.*

After reviewing all of the evidence of record, we affirm our previous decision that the petitioner has not established the beneficiary's possession of at least a U.S. Master's degree or a foreign equivalent degree. Therefore, the beneficiary does not qualify for classification as an advanced degree professional under section 203(b)(2)(A) of the Act.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** Upon consideration of the motion, we affirm our decision dated October 16, 2014. The petition remains denied.